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HOUSE RESEARCH ORGANIZATION

daily floor report

Monday, May 08, 2017
85th Legislature, Number 66
The House convenes at 10 a.m.
Part One

Two bills are on the Emergency Calendar and three joint resolutions are on the Constitutional Amendments Calendar for second-reading consideration today. They are analyzed in Part One of today's *Daily Floor Report* and listed on the following page.



Dwayne Bohac
Chairman
85(R) - 66

HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Monday, May 08, 2017

85th Legislature, Number 66

Part 1

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SUBJECT: Modifying court procedures for child abuse and neglect cases

COMMITTEE: Human Services — committee substitute recommended

VOTE: 7 ayes — Raymond, Frank, Keough, Miller, Minjarez, Rose, Wu
0 nays
2 absent — Klick, Swanson

WITNESSES: For — Andrew Homer, Texas CASA; Jeremy Newman, Texas Home School Coalition; Patricia Hogue, Texas Lawyers for Children;
(*Registered, but did not testify*: Will Francis, National Association of Social Workers - Texas Chapter; Katherine Barillas, One Voice Texas; Diane Ewing, Texans Care for Children; Sarah Crockett, Texas CASA; Joshua Houston, Texas Impact; James Thurston, United Ways of Texas; Knox Kimberly, Upbring; Danielle King; Thomas Parkinson)

Against — (*Registered, but did not testify*: Lee Spiller, Citizens Commission on Human Rights; Monica Ayres)

On — Jim Black, Angel Eyes Over Texas; Judy Powell and Johana Scot, Parent Guidance Center; Brandon Logan, Texas Public Policy Foundation; Tyrone Obaseki; Dean Rucker; (*Registered, but did not testify*: Anna Ford, Tiffany Roper, Kaysie Taccetta, and Eric Tai, Department of Family and Protective Services)

DIGEST: CSHB 7 would make various changes to procedures related to state intervention in child abuse and neglect, including applications for protective orders, suits affecting the parent-child relationship, the placement of a child, and court-ordered medical care.

Termination of parental rights and limits on removal. The bill would prohibit a court from terminating parental rights and the Department of Family and Protective Services (DFPS) from taking possession of a child based on evidence that the parent:

- homeschooled the child;
- was economically disadvantaged;
- engaged in reasonable discipline of the child; or
- had been charged with a nonviolent misdemeanor other than offenses against the person, offenses against the family, or an offense involving family violence as defined by Family Code, sec. 71.004.

The bill would allow a court to terminate parental rights for a parent if the court found by clear and convincing evidence grounds for termination of that parent's parental rights.

Service plan. The bill states that an allegation of abuse or neglect of a child or restatement of the facts of a case that was included in a service plan was inadmissible in court as evidence. Within five business days after a full adversary hearing, DFPS would have to make all referrals necessary for each parent to comply with a judge's order for services and provide information to parents on the availability of DFPS-approved service providers.

Protective order. The bill would allow DFPS to file an application for a protective order for a child on behalf of the department or jointly with a parent, relative, or caregiver if DFPS:

- had temporary managing conservatorship of the child;
- determined the child was a victim of abuse or neglect and there was the threat of immediate or continued abuse or neglect to the child, among other possible threats; and
- was not otherwise allowed to apply for a protective order for the child.

Review of child's placement. The bill would require the court at each hearing to review the placement of each child in DFPS temporary or permanent managing conservatorship for children who were not placed with kin or a designated caregiver.

Voluntary temporary managing conservatorship. A parent's voluntary

agreement to temporarily place a child in DFPS managing conservatorship would not be considered an admission by the parent that the parent engaged in conduct that endangered the child.

Required notifications. The bill would require DFPS to notify the managed care organization (MCO) contracting with the state to provide health services to the child under Medicaid's STAR Health program of any changes in a child's placement as soon as possible. The MCO would have to inform the child's primary care physician of the placement change.

Within five days of a child placing agency notifying DFPS of its intent to change a child's placement or a foster parent's request to remove a child from a foster home, DFPS would be required to give notice of the change to:

- the child's parent;
- the child's appointed attorney ad litem, guardian ad litem, and volunteer advocate; and
- any other person determined by a court to have an interest in the child's welfare.

If DFPS received notice of a child placing agency's intent to change a child's placement, DFPS also would have to notify and give reasons to a foster parent, prospective adoptive parent, relative of the child providing care, or director of the group home or general residential operation where the child resided. For foster parents requesting removal of a child, DFPS would have to notify the licensed administrator of the child placing agency responsible for placing the child or a designee of the administrator.

Consultation for medical care. The bill would prohibit a court from issuing an order requiring or prohibiting medical care, including mental health care, for a child in DFPS conservatorship unless:

- the court found that a health care professional had been consulted on the proposed or prohibited care; and
- the health care professional had confirmed in writing that the treatment was medically necessary or, for an order prohibiting

specific medical care, that the prohibition would not prevent the child from receiving necessary medical care.

This provision would not apply to a court order for emergency medical care, including mental health care, for a child in DFPS conservatorship.

A general residential operation that provided mental health treatment or services to a child in DFPS conservatorship would have to timely submit to the court in a suit affecting the parent-child relationship all requested information by that court.

A managed care organization (MCO) under Medicaid's STAR Health program would have to be required to ensure continuity of care for a child whose placement has changed by:

- notifying each specialist treating the child of the placement change; and
- coordinating the transition of care from the child's previous doctor and specialists to the child's new doctor and specialists, if any.

Dismissal of cases. CSHB 7 would terminate a court's jurisdiction over a case affecting the parent-child relationship if the court did not issue a ruling within one year. The case would be automatically dismissed without a court order. The bill would allow DFPS to request a six-month extension of the case for a parent to complete the remaining requirements in a service plan in order for a child to return home.

Child support payments. Unless a court determined a parent was indigent, the bill would allow a court to order a parent of a child in DFPS conservatorship to pay child support while the suit for DFPS to become managing conservator of a child was pending.

Supreme Court rules. The bill would require the Texas Supreme Court by rule to establish civil and appellate procedures to address:

- conflicts between the filing of a motion for new trial and the filing of an appeal of a final order rendered; and
- the period, including an extension of at least 20 days, for a court

reporter to submit the reporter's record of a trial to an appellate court following a final order rendered.

Assessment. DFPS would have to conduct an independent living skills assessment for all youth in DFPS conservatorship who were at least 14 years old and to update the assessment annually.

Collaboration. The bill would require DFPS and the Texas Juvenile Justice Department to coordinate and develop protocols for sharing data with each other on services for multi-system youth.

DFPS would have to collaborate with other interested parties to review the use of broad-form and specific jury questions in suits affecting the parent-child relationship and submit recommendations to the Legislature by December 31, 2017.

Effective date. The bill would take effect September 1, 2017, and would apply to a service plan filed for a full adversary hearing or a status hearing on or after January 1, 2018.

**SUPPORTERS
SAY:**

CSHB 7 would address concerns about the length and complexity of court proceedings for child abuse and neglect cases. Requiring the court to review a foster child's placement at each hearing would promote the placement of children with relatives. Requiring child welfare stakeholders to be notified of a child's change in placement would enhance transparency and ensure stakeholders had accurate and timely data on a foster child's location.

The bill would provide sufficient protection regarding medical or mental health treatment for children because the court would rely solely on the medical expertise of a doctor to determine any necessary treatment for a child before issuing an order for that treatment.

**OPPONENTS
SAY:**

CSHB 7 would not provide sufficient protection against unnecessary mental health treatment for children.

NOTES:

According to the Legislative Budget Board's fiscal note, CSHB 7 would have a negative impact of about \$10.5 million to general revenue related

funds during fiscal 2018-19.

SUBJECT: Modifying community-based foster care services

COMMITTEE: Human Services — committee substitute recommended

VOTE: 7 ayes — Raymond, Frank, Keough, Klick, Miller, Swanson, Wu

1 nay — Rose

1 present not voting — Minjarez

WITNESSES: *At February 20 hearing:*

For — Jennifer Allmon, The Texas Catholic Conference of Bishops; Wayne Carson, Texas Alliance of Child and Family Services; Chris Corsbie, Texas Association Court Interpreters and Translators; Randy Daniels, Buckner International; Kathryn Freeman, Texas Baptist Christian Life Commission; Lynn Harms, Children's Home of Lubbock; Andrew Homer, Texas CASA; Brandon Logan, Texas Public Policy Foundation; Shannon Rosedale and Dana Springer, Catholic Charities Fort Worth; Tara Roussett, Texas Alliance of Child and Family Services; Frank Rynd, Archdiocese of Galveston-Houston; Sherri Statler, Christian Homes & Family Services; James Strickland, Neuro Synchrony Institute; Linda Wolfe and Janet Woody, Stand Out Ministries; Dee Hobbs; Tildon Humphrey; John Specia; Karen Thompson; (*Registered, but did not testify*: Steve Koebele, Miracle Farm; Scott Lundy, Katie Olse, Rachel Richter, Annette Rodriguez, Texas Alliance of Child and Family Services; Jake Posey, Methodist Children's Home-Waco; Clint Bedsole; Robert Howard; Stuart Reynolds)

Against — Harrison Hiner, Texas State Employees Union; Judy Powell and Johana Scot, Parent Guidance Center; Lee Spiller, Citizens Commission on Human Rights; (*Registered, but did not testify*: Brad O'Furey)

On — Katherine Barillas, One Voice Texas; Will Francis, National Association of Social Workers-Texas Chapter; Patricia Hogue, Texas Lawyers for Children; Kate Murphy, Texans Care for Children; Chuck Smith, Equality Texas; Hank Whitman and Trevor Woodruff, Department

of Family and Protective Services; Danielle Cordaway; Madeline Dreier; Scott McCown; Addison Nelson; (*Registered, but did not testify*: Lynn Blackmore, Kristene Blackstone, Audrey Carmical, Lisa Kanne, Lisa Subia, and Kaysie Taccetta, Department of Family and Protective Services)

At April 3 hearing:

For — Katherine Barillas, One Voice Texas; Nathan Buchanan, Ministerial Alliance Mineral Wells; Wayne Carson, ACH Child and Family Services; Kathy Friend, The Children's Shelter-San Antonio; Andrew Holland, Hope Fort Worth; Andrew Homer, Texas CASA; Jenifer Jarriel and Katie Olse, Texas Alliance of Child and Family Services; Peter Lindsay, Mattie Parker, Peter Philpott, Dub Stocker, ACH Child and Family Services; Dimple Patel, TexProtects; Kurt Senske, Upbring; Scott Lundy, Arrow Child and Family Ministries; Kate Murphy, Texans Care for Children; Chrystal Smith, Foster Village Austin; Tracy King; Mike Sloan; (*Registered, but did not testify*: Jennifer Allmon, The Texas Catholic Conference of Bishops; Gary Duke, Azleway, Inc.; Kathryn Freeman, Christian Life Commission; Katija Gruene, Green Party of Texas; Jeremy Newman, Texas Home School Coalition; Michael Redden, New Horizons; James Thurston, United Ways of Texas; Patricia Murphy; Thomas Parkinson; Cecilia Wood)

Against — Harrison Hiner, Texas State Employees Union; Patricia Hogue, Texas Lawyer for Children; Judy Powell and Johana Scot, Parent Guidance Center; Brooke Goodlett; Cecilia Hellrung; Alison Meyers; (*Registered, but did not testify*: Rene Lara, Texas AFL-CIO; Julie Ross, Dallas Down Syndrome Guild; Lee Spiller, Citizens Commission on Human Rights)

On — Brian Cronin, ICF; Will Francis, National Association of Social Workers-Texas Chapter; Robert Kepple, Texas District and County Attorneys Association; Brandon Logan, Texas Public Policy Foundation; Kim Murphy, Dallas County Public Defender's Office; Kaysie Taccetta and Trevor Woodruff, Department of Family and Protective Services; Christopher Buck; Darlene Byrne; (*Registered, but did not testify*: Kristene Blackstone and Lana Estevilla, Department of Family and Protective Services)

BACKGROUND: The 82nd Legislature in 2011 enacted SB 218 by Nelson, which implemented foster care redesign at the Department and Family Protective Services (DFPS) by directing the agency to adopt stakeholder recommendations included in a DFPS report. The report included eight quality indicators for foster care redesign, such as ensuring children are safe and that they receive appropriate services, have a chance to participate in decisions affecting their lives, and have foster placements near their home communities.

SB 218 also directed DFPS to change how the state contracts and pays for child welfare services. The bill authorized DFPS to competitively procure for one or more DFPS regions a single source continuum contractor (SSCC), which helps place children in and coordinates all of the residential and treatment services for the contracted area.

Family Code, sec. 263.401 requires courts to dismiss after one year a conservatorship case affecting the parent-child relationship if the court has not issued a ruling. Sec. 266.012 requires a child to receive a comprehensive assessment, which includes a trauma screening and interviews with individuals who are aware of a child's needs, within 45 days after entering DFPS conservatorship. Sec. 261.001 defines abuse and neglect. Sec. 162.0062 entitles prospective adoptive parents of a foster child to examine records and other relevant background information of the child.

Sec. 264.124 requires DFPS to verify that a foster parent who is seeking monetary assistance from DFPS for day care has attempted to find appropriate day care services for the foster child through community services. Except in emergency placement situations, DFPS may not provide monetary assistance to a foster parent for day care until it has received the required verification from the foster parent.

DIGEST: CSHB 6 would transfer certain case management services from the Department of Family and Protective Services (DFPS) to a qualified single source continuum contractor (SSCC) that would provide community-based foster care within a contracted area.

Community-based foster care. The bill would change the name of foster care redesign to community-based foster care. A catchment area would be defined as a geographic area that provides child protective services under community-based foster care. While DFPS maintains temporary or permanent custody of a child, an SSCC would oversee the case management services of a child in a catchment area. Case management services would include:

- caseworker visits;
- family and caregiver visits;
- permanency planning meetings;
- development and revision of child and family plans of service, including a permanency plan and goals for a child;
- coordination and monitoring of services required by the child and the child's family;
- court-related duties, such as provision of required notifications or consultations; preparation of court reports; attendance of judicial and permanency hearings, trials, and mediations; compliance with applicable court orders; confirmation the child is progressing toward the permanency goal within state and federally mandated guidelines; and
- other services DFPS deems necessary for a single source continuum contractor to assume responsibility of case management.

Transfer of case management services to SSCC. DFPS would transfer family reunification support services and case management services to an SSCC that was operating in an initial catchment area before June 1, 2017. DFPS and the SSCC would create an initial case transfer planning team to address any necessary data transfer, establish file transfer procedures, and notify relevant persons regarding the transfer of services to the SSCC.

Foster care services contract compliance, oversight, and quality assurance division. The bill would require DFPS to create the foster care services contract compliance, oversight, and quality assurance division. The division would oversee contract compliance and achievement of performance-based outcomes by any vendor that provided community-

based foster care and administer a dispute resolution process between SSCCs and subcontractors.

Investigations of child abuse, neglect, and exploitation. Investigations of alleged abuse, neglect, or exploitation occurring at a child-care facility would remain under the purview of DFPS. DFPS would be required to transfer the investigation duties of the Texas Child-Care Licensing (CCL) division to its Child Protective Services (CPS) division. This transfer would occur as soon as possible after the effective date of this section, which would be immediately if the bill was finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect August 28, 2017.

The bill would repeal the abuse, neglect, and exploitation definitions used by CCL at DFPS under Family Code, sec. 261.401. DFPS instead would adopt a definition of abuse, neglect, and exploitation under Family Code, sec. 261.001.

DFPS would have to create standardized policies to use during investigations. It would implement the standardized definitions and policies by December 1, 2017. The DFPS commissioner would be required to establish specialized units within CPS to investigate allegations of child abuse, neglect, and exploitation at child-care facilities and could require investigators to receive ongoing training on minimum licensing standards.

Qualifications. In order to qualify as an SSCC, an entity would have to be a nonprofit or governmental entity that was licensed as a service provider by DFPS, had an organizational mission focused on child welfare, and had the ability to provide all services and perform all duties as outlined in the bill. DFPS would be required to develop a readiness review process to determine the ability of an SSCC to provide foster care services in a catchment area.

SSCC contract. The bill would require the following provisions be included in a contract with an SSCC:

- specify performance outcomes and financial incentives for

exceeding any performance outcomes;

- establish conditions for the SSCC's access to relevant DFPS data and require the SSCC to participate in the data access and standards governance council;
- require the SSCC to create one process for the training and use of alternative caregivers for all child-placing agencies in the catchment area to facilitate reciprocity of licenses for alternative caregivers between agencies, including respite and overnight care providers, as defined by DFPS rule; and
- require the SSCC to maintain a diverse network of service providers that can accommodate children from different cultural backgrounds.

DFPS would review, approve, or disapprove a contractor's decision regarding a child's permanency goal. The bill would require DFPS to form an internal dispute resolution process to resolve disagreements between an SSCC and DFPS. An SSCC and any subcontractor would have to maintain minimum insurance coverage.

Early termination of contract. The bill would allow an SSCC to end its contract early by providing a written notice to the Health and Human Services Commission (HHSC) within 90 days before the termination. DFPS would have to create a contingency plan in every catchment area to ensure the continuation of foster care services if an SSCC decided to terminate its contract prematurely.

Expanding community-based foster care. By December 31, 2019, DFPS would have to:

- identify a maximum of eight catchment areas that were best suited to implement community-based foster care, two of which could be identified to transfer the case management services to an SSCC;
- create an implementation plan for those catchment areas, including a timeline for implementation;
- following the readiness review process and subject to the availability of funds, implement community-based foster care in those catchment areas; and

- following the implementation of community-based foster care services, evaluate the implementation process and SSCC performance in each catchment area.

The bill would allow DFPS to change the geographic boundaries of catchment areas to align with specific communities. DFPS would have to ensure the continuity of services for children and families during the transition of community-based foster care in a catchment area.

Pilot program. The bill would require DFPS to implement a pilot program in two CPS regions in which HHSC contracts with a single non-profit entity focused on child welfare or a governmental entity to provide family-based safety services and case management for children and families receiving those services.

By December 1, 2018, DFPS would have to submit a report to the applicable standing committees that included an evaluation of every contracted entity's progress in achieving certain performance goals. The report also would include a recommendation of whether to continue, expand, or terminate the pilot program.

Community engagement group. The bill would require DFPS to create a community engagement group in each catchment area to assist with the implementation of community-based foster care. DFPS would adopt rules governing community engagement groups and the maximum number of child welfare stakeholders that could be included in the group. The group would identify and report any issues stemming from the implementation process and facilitate the use of local resources, including prevention and early intervention resources, to supplement community-based foster care services.

Data access and standards governance council. The bill would require DFPS to establish a data access and standards governance council to develop protocols for allowing SSCCs to access DFPS data to perform case management functions. Every SSCC that contracted with DFPS to provide community-based foster care would have to participate on the council. The council also could include court stakeholders, DFPS, health care providers, and other entities DFPS deemed necessary.

Initial medical examination and mental health screening. The bill would require children who are in DFPS custody for more than three business days to receive a medical examination and mental health screening by the end of the third business day, or by the end of the fifth business day if the child was located in a rural area, as defined by Insurance Code, sec. 845.002. The bill would require DFPS to submit a report by December 31, 2019, to the applicable standing committees regarding the department's compliance with administering medical examinations and mental health screenings.

The bill would require DFPS and an SSCC to notify within 24 hours the managed care organization under Medicaid's STAR Health program of any changes in a child's placement.

An SSCC would have to verify a child who received therapeutic foster care services was screened for trauma at least once every 90 days.

Health screening requirements. A managed care organization under the STAR Health program, a child-placing agency, and general residential operation would be required to ensure children in DFPS conservatorship received a complete early and periodic screening, diagnosis, and treatment checkup as specified in their respective contracts with HHSC. An entity's noncompliance with administering the required screening, diagnosis, and checkup to children in DFPS conservatorship would result in progressive monetary penalties. The bill would prohibit HHSC from imposing financial penalties for an entity's noncompliance until September 1, 2018.

The bill would apply to a contract between a managed care organization and HHSC on or after September 1, 2017. A child-placing agency and general residential operation would have to comply with the required contract provisions by August 31, 2018.

Data. The bill would require DFPS to collect and monitor data on recurring reports of abuse or neglect by the same alleged perpetrator and involving the same child, including reports of abuse or neglect of the child made while the child resided in other households and reports of abuse or neglect of the child by different alleged perpetrators made while the child

resided in the same household. When DFPS determined case priority or conducted service or safety planning for the child or child's family, the bill would require DFPS to consider any reports of abuse and neglect.

As soon as practicable after the bill's effective date, the bill would require DFPS to create an office of data analytics to monitor and report on the agency's staff performance.

Collaboration. In non-community-based foster care regions, DFPS management personnel and local stakeholders would have to create and submit to the DFPS commissioner an annual plan that addressed foster care capacity needs.

In regions where community-based foster care was not established, DFPS would be required to collaborate with a child-placing agency to develop and implement the single child plan of service model for each child in foster care in those regions by September 1, 2017.

HHSC and DFPS would have to develop performance quality metrics by September 1, 2018, for family-based safety services and post-adoption support services providers.

Records. DFPS would be required to ensure a child-placing agency, SSCC, or other person placing a child for adoption receives a copy of a child's health, social, educational, and genetic history report. If a child was placed with a prospective adoptive parent prior to adoption, the bill would entitle the prospective adoptive parent access to the child's medical history record.

An entity placing a child for adoption would be required to notify the prospective adoptive parent of the prospective adoptive parent's right to examine the child's medical history record. The entity placing a child for adoption also would have to redact information from the medical history records to protect the biological parents and other persons whose identities were confidential. If DFPS was aware a child's birth mother consumed alcohol during pregnancy and the child had been diagnosed with fetal alcohol spectrum disorder, the bill would mandate DFPS include such information in the child's health history.

Daycare reimbursement for foster parents. The bill would require DFPS to provide monetary assistance to a foster parent for full-time or part-time daycare services for a foster child if DFPS received the required verification from a foster parent or the child needed an emergency placement. As long as the foster parent was employed full-time or part-time, the bill would prohibit DFPS from denying monetary assistance to the foster parent.

Attorney-client privilege. The bill would deem an employee, agent, or representative of an SSCC as a client's representative of DFPS for attorney-client communication privileges.

Suits. Under the bill, a court's jurisdiction over a case affecting the parent-child relationship would be terminated if the court did not issue a ruling within one year. The case would be automatically dismissed without a court order.

Legal representation. In any action that is filed against DFPS, at a minimum, a county attorney or district attorney would legally represent the department.

Effective date. Except as otherwise stated, the bill would take effect September 1, 2017.

**SUPPORTERS
SAY:**

CSHB 6 would increase foster care capacity, strengthen accountability and transparency, and galvanize collaboration among child welfare stakeholders to promote a foster child's best interests within local communities.

The bill would increase Texas' ability to provide community-based foster care services to foster children with diverse needs in multiple geographic regions. The Department of Family and Protective Services (DFPS) experiences high caseworker turnover rates and lacks efficiency and local decision-making to find placements for children in foster care. Transferring case management services to a single source continuum contractor (SSCC) and expanding community-based foster care to other regions would allow more children to be placed within their home

communities and experience better outcomes.

The bill would strengthen accountability by requiring an SSCC to undergo an extensive readiness review process before the transfer of case management services or the expansion of community-based foster care occurred. During the readiness review process, an SSCC would have to disclose a plan explaining how the SSCC would avoid or eliminate conflicts of interest. The creation of a quality assurance division would increase transparency by requiring SSCCs to meet specific performance-based outcomes.

The bill would enhance collaboration among state and local child welfare stakeholders by establishing a community engagement group. The group would allow stakeholders to provide any necessary feedback to DFPS to make a region's transition to community-based foster care as smooth as possible.

OPPONENTS
SAY:

CSHB 6 would reduce Child Protective Services' (CPS) role in the foster care system by outsourcing case management services to a single source continuum contractor (SSCC). Enabling an SSCC to provide case management services could lead to conflicts of interest by the SSCC, which could endanger the child's best interests.

The Legislature should give DFPS more time to use its monetary and staff resources to improve outcomes for foster children before transferring case management services to an SSCC.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of about \$17.6 million in general revenue related funds during the fiscal 2018-19 biennium.

SUBJECT: Homestead exemption for partially donated homes of disabled veterans

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 10 ayes — D. Bonnen, Y. Davis, Bohac, Darby, E. Johnson, Murphy, Murr, Raymond, Shine, Stephenson

0 nays

1 absent — Springer

WITNESSES: For — (*Registered, but did not testify:* Scott Norman, Texas Association of Builders; Julia Parenteau, Texas Association of Realtors)

Against — None

On — Mike Esparza, Comptroller of Public Accounts

BACKGROUND: Texas Constitution, Art. 8, sec. 1-b(1) allows the Legislature to provide a partial homestead exemption for a partially disabled veteran equal to the percentage of the disability only if that homestead was donated at no cost to the disabled veteran. Tax Code, sec. 11.132 creates this exemption.

DIGEST: HJR 21 would amend Art. 8, sec. 1-b(1) of the Texas Constitution to allow the Legislature to entitle a partially disabled veteran to a partial homestead exemption on the value of a homestead that was donated at some cost to the veteran, as long as the cost was less than the market value of the homestead.

The ballot proposal would be presented to voters at an election on November 7, 2017. The proposal would read: “The constitutional amendment authorizing the legislature to provide for an exemption from ad valorem taxation of part of the market value of the residence homestead of a partially disabled veteran or the surviving spouse of a partially disabled veteran if the residence homestead was donated to the disabled veteran by a charitable organization for less than the market value of the residence homestead and harmonizing certain related

provisions of the Texas Constitution.”

**SUPPORTERS
SAY:**

HJR 21 would allow the Legislature to fix an anomaly in current law that can increase the financial burden on a partially disabled veteran who paid some amount of the cost of a donated home. Unlike a partially disabled veteran whose home is donated in full, a veteran who paid part of the cost of a donated home receives no property tax exemption on its taxable value. This can lead to a sizable property tax bill that the recipient may not have anticipated and an ongoing cost that the veteran may not have the income to offset. Veterans in this situation are at risk of losing a donated home to unpaid property taxes, even if that home was built or renovated specifically for the individual's disabilities, with features such as wheelchair-accessibility.

Veterans have sacrificed much for the state, and the Legislature should afford them certain benefits and attempt to address injustices when it finds them. In this spirit, HJR 21 would confer the same well-earned property tax exemption to a partially disabled veteran who paid something toward the value of a donated home that is currently received by disabled veterans whose homes were donated in full. No disabled veteran should be at risk of losing a home that is specifically donated to accommodate their needs due to an ongoing, unaffordable property tax burden.

**OPPONENTS
SAY:**

HJR 21 would continue a pattern of giving carve-outs and exemptions to specific groups of people, when instead the Legislature should focus its efforts on reducing the tax burden on everyone.

NOTES:

According to the Legislative Budget Board's fiscal note, HJR 21 would cost \$114,369 to publish the resolution.

HB 150 by Bell is the enabling legislation for HJR 21. Contingent on voter approval of HJR 21, HB 150 would entitle a partially disabled veteran to a partial homestead exemption for a home that was donated at some cost to the veteran, as long that cost was no more than 50 percent of its market value.

HB 150 passed the House on second reading May 6. The HRO analysis of HB 150 appears in Part 2 of the Friday, May 5 *Daily Floor Report*.

A companion resolution, SJR 23 by Creighton, was referred to the Senate Committee on Veteran Affairs and Border Security on January 30.

SUBJECT: Allowing a tax exemption for housing for individuals with disabilities

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 7 ayes — D. Bonnen, Bohac, Darby, E. Johnson, Murphy, Raymond,
 Shine

 4 nays — Y. Davis, Murr, Springer, Stephenson

WITNESSES: For — Kirk Coats, Daybreak Community Services/Unified Care Group;
 Jeff Engelke, Premieant, Inc.; Richard Hernandez, ResCare, Inc.;
 *(Registered, but did not testify: Elise Gamez, Daybreak/Unified Care
 Group; Sandra Frizzell, Providers Alliance for Community Services of
 Texas)*

 Against — *(Registered, but did not testify: Joseph Green, Travis County
 Commissioners Court; CJ Grisham)*

 On — *(Registered, but did not testify: Sacha Jacobson)*

DIGEST: HJR 52 would amend Art. 8 of the Texas Constitution to allow the
 Legislature to create a property tax exemption for property used to provide
 housing to individuals with disabilities. An exemption created under this
 authority would be equal to the costs the owner of the property incurred to
 maintain, operate, and make improvements to the property. The
 Legislature could establish eligibility requirements and provide the
 manner of determining the amount of the exemption.

 The ballot proposal would be presented to voters at an election on
 Tuesday, November 7, 2017. The proposal would read: “The
 constitutional amendment authorizing the legislature to exempt from ad
 valorem taxation a portion of the assessed value of certain real property
 used to provide housing to certain individuals with disabilities.”

SUPPORTERS
SAY: By permitting the creation of this exemption, HJR 52 would help allow
 providers of housing for individuals with disabilities to reinvest funds
 back into the maintenance and improvement of these homes, which would

boost the market value of both the home itself and property in the surrounding community. These providers already operate on razor thin margins, and the tax burden affects their bottom line. Changes in valuation or increases in the tax rate can cause cuts in services. This bill would reduce the impact of property taxes on these providers, allowing them to do more of what they do best.

HJR 52 is necessary because current law essentially requires private providers of homes for individuals with disabilities to spend revenue derived from state Medicaid and federal matching dollars to pay property taxes. This makes tax dollars less efficient, as the revenue stream essentially goes straight back to the government. The state should not pass up this opportunity to improve economic efficiency even though providers of other services do not receive similar benefits.

While the state may not have the resources to begin offering this exemption during the current fiscal biennium, the Legislature should do what it can now to ensure the benefits are realized as soon as possible. The Legislature frequently creates obligations that do not begin until future biennia, and HJR 52 would be no exception to this practice.

OPPONENTS
SAY:

The Legislature should not continue a pattern of giving carve-outs and exemptions to specific groups of people. Instead, it should focus its efforts on reducing the tax burden on everyone.

Also, HJR 52 is unnecessary because property taxes are just a cost of doing business. Providers of many sorts of services rely on Medicaid or other forms of state assistance for revenue, but they do not enjoy tax exemptions.

OTHER
OPPONENTS
SAY:

While the enabling legislation, HB 850 by Turner, would delay the cost to the state of offering the property tax exemption authorized by HJR 52, tight budgets now do not necessarily mean more money will be available in future sessions. The state should avoid obligating itself unnecessarily in the fiscal years to come.

NOTES:

According to the Legislative Budget Board's (LBB's) fiscal note, HJR 52 would cost \$114,369 to publish the resolution.

The enabling legislation for HJR 52 is HB 850 by Turner. The LBB's fiscal note for HB 850 projects that the bill's tax exemptions would cost about \$4 million to the state through the school funding formulas in fiscal 2022. HB 850 passed the House on second reading May 6.

SUBJECT: Proposing a constitutional amendment issuing additional bonds for EDAP

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 10 ayes — Larson, Phelan, Ashby, Burns, Frank, Kacal, T. King, Lucio,
Nevárez, Price

1 nay — Workman

WITNESSES: For — Anthony Groves and Kim Lenoir, City of Brady; Hector Gonzalez,
El Paso Water; Richie Hernandez, Lower Valley Water District; Keith
Kindle; (*Registered, but did not testify*: Carolyn Brittin, AGC of Texas
Highway, Heavy, Utilities, and Industrial Branch; Tom Tagliabue, City of
Corpus Christi; Erich Morales and Claudia Russell, El Paso County;
Cyrus Reed, Lone Star Chapter Sierra Club; Donald Lee, Texas
Conference of Urban Counties; Nate Walker, Texas Low Income Housing
Information Service; Jennifer Emerson, Texas Rural Water Association;
Perry Fowler, Texas Water Infrastructure Network)

Against — (*Registered, but did not testify*: Adam Cahn, Cahnman's
Musings)

On — (*Registered, but did not testify*: Moses West, AWG Technology
LLC; Amanda Lavin, Texas Water Development Board)

BACKGROUND: The Economically Distressed Areas Program (EDAP) is a program under
the Texas Water Development Board that provides financial assistance for
water and wastewater projects in economically distressed areas where
service is unavailable or inadequate. The program offers grant funding,
loans with long-term, low interest rates, or a combination of grants and
loans for planning, design, acquisition, and construction for projects.

An economically distressed area is a political subdivision where the
median household income is no greater than 75 percent of the state's
median household income.

EDAP has committed more than \$848 million to projects through fiscal

2016, and the 84th Legislature appropriated \$50 million to the program for fiscal 2016-17.

DIGEST: HJR 36 would amend the Texas Constitution to allow the Texas Water Development Board (TWDB) to issue up to \$200 million in additional general obligation bonds for the Economically Distressed Areas Program (EDAP) account of the TWDB Fund II.

The additional bonds could be issued as bonds, notes, or other obligations as permitted by law and would be sold in forms and denominations, on terms, at times, in the manner, at places, and in installments, as determined by the board. TWDB also would determine a rate or rates of interest for the bonds, which would be incontestable after execution by the board, approval by the attorney general, and delivery to the purchaser.

The ballot proposal would be presented to voters at an election on Tuesday, November 7, 2017. The proposal would read: "The constitutional amendment providing for the issuance of additional general obligation bonds by the Texas Water Development Board in an amount not to exceed \$200 million to provide assistance to economically distressed areas."

SUPPORTERS SAY: HJR 36 would allow the Texas Water Development Board to issue additional bonds for EDAP, which assists water and wastewater infrastructure in local areas of need. This program has helped disadvantaged communities that could not otherwise afford to set up water systems.

Texas voters would have the opportunity to issue \$200 million in bonds, which are necessary to finish projects that have already been started and need construction. It would be fiscally irresponsible for the state to waste the taxpayer dollars invested to this point by failing to complete these projects. While the state has limited funds, completing these projects to provide citizens access to clean drinking water and functioning wastewater systems is necessary for public health.

Concerns that the program would encourage reliance on state funds are unwarranted. EDAP helps local economies by installing water lines in

areas to which businesses previously could not move. HJR 36 could help create jobs in low-income areas, boosting the Texas economy.

OPPONENTS
SAY:

Approving HJR 36 would ask voters to increase state debt during tight fiscal times by issuing additional bonds for EDAP. Even though the state would not begin paying debt service in fiscal 2018-19, Texas should not obligate itself this way in the coming fiscal years. Texas cannot sustain additional costs, and no state agency should issue additional bonds at this time.

Also, EDAP increases local reliance on state support, and extending water lines to rural areas could encourage more people to move into areas that are expensive to maintain.

NOTES:

The Legislative Budget Board's fiscal note estimates a negative impact of \$114,369 through fiscal 2018-19 for publication of the resolution, and \$4.2 million in fiscal 2020, \$4.9 million in fiscal 2021, and \$8.9 million in fiscal 2022. The Legislative Budget Board assumes, based on an analysis from the Texas Water Development Board (TWDB), that TWDB would issue bonds with \$50 million in par amount on December 1, 2019, and on December 1, 2021, at 5 percent interest rates. The joint resolution would not make an appropriation, but could provide the legal basis for appropriations.

A companion resolution, SJR 61 by Lucio, was left pending following a public hearing in the Senate Finance Committee on May 1.